

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

EXAMWORKS, INC.,

Plaintiff,

v.

17-CV-80
ORDER

JENNIFER SOLTYS,

Defendant.

On June 20, 2017, this Court referred this case to United States Magistrate Judge Michael J. Roemer for all proceedings pursuant to 28 U.S.C. Section 636(b)(1)(A) and (B). Docket Item 26. After the plaintiff filed an amended complaint, Docket Item 18, and the defendant answered with counterclaims, Docket Item 19, the plaintiff moved to dismiss all but one of the defendant's counterclaims, Docket Item 25. On July 14, 2017, the defendant responded to the plaintiff's motion, Docket Item 27; on July 27, 2017, the plaintiff replied, Docket Item 28; and on August 3, 2017, Judge Roemer held oral argument, Docket Item 30.

On August 10, 2017, Judge Roemer issued a Report, Recommendation and Order (1) recommending that the defendant's unjust enrichment counterclaim be dismissed with prejudice and without leave to amend; (2) recommending that the defendant's counterclaims for fraud, tortious interference, and defamation, and seeking an injunction, be dismissed without prejudice; and (3) granting the defendant "leave to amend the counterclaims alleging fraud, tortious interference, and defamation as well as her request for injunctive relief." Docket Item 31. The parties did not object to the

Report, Recommendation and Order, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge's recommendation to which objection is made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. Section 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are addressed. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Roemer's Report, Recommendation and Order, as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Roemer's recommendation—to dismiss the defendant's unjust enrichment counterclaim with prejudice and to dismiss the fraud, tortious interference, defamation, and injunctive relief counterclaims without prejudice—in its entirety.

For the reasons stated above and in the Report, Recommendation and Order, the plaintiff's motion to dismiss the unjust enrichment counterclaim is GRANTED and the unjust enrichment counterclaim is dismissed with prejudice; the plaintiff's motion to dismiss the counterclaims for fraud, for tortious interference, for defamation, and seeking injunctive relief is GRANTED and those counterclaims are DISMISSED without

prejudice; and the case is referred back to Judge Roemer consistent with the original referral order of June 20, 2017.

SO ORDERED.

Dated: October 18, 2017
Buffalo, New York

s/Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE